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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDUARDO RODELAS-ORTEGA, a.k.a.  
Eduardo Rodelas; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-73688

Agency Nos. A78-461-295  
A73-219-604

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 11, 2008<sup>\*\*</sup>

Before: WALLACE, LEAVY and RYMER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioners' motion to reopen.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA's denial of a motion to reopen is reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The regulations state that a motion to reopen removal proceedings must be filed not later than ninety days after the date on which the final order of removal was entered, with certain exceptions. *See* 8 C.F.R. § 1003.2(c).

A review of the administrative record demonstrates that petitioners filed their motion to reopen on July 20, 2007, more than ninety days after March 30, 2007, the date on which their final orders of removal were entered. In addition, the BIA did not abuse its discretion in denying petitioners' motion to reopen where they did not demonstrate prima facie eligibility for relief under the Convention Against Torture ("CAT"). *See Mendez-Gutierrez v. Ashcroft*, 340 F.3d 865, 869-70 (9th Cir. 2003) ("prima facie eligibility for the relief sought is a prerequisite for the granting of a motion to reopen"); 8 C.F.R. § 1208.16(c)(2) (applicant for CAT relief must prove "it is more likely than not that he or she would be tortured if removed to the proposed country of removal"). Accordingly, respondent's unopposed motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require

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further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**